IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 14191 of 1997

Between:

M/s Satyanarayana Riuce Mill

T.B.Palem (v) Kodad mandalk,

Nalgonda district, rep. by its Lease

Holder J.V.Rama Rao son of Pedda

Subramanyam, aged about 41 yrs, resident of Kodad.

..... PETITIONER

AND

1.The Superintending Engineer,

Operation Circle, APSEB, Nalgonda district.

2.The Assistant Divisional Engineer/DPE-I

Nalgonda, Nalgonda district.

3.The Assistant Divisional Engineer (Operation)

APSEB, Kodad, Nalgonda district.

4.Assistant Accounts Officer, E.R.O.

APSEB, Kodad, Nalgonda district.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, preferably one in the nature of Writ of Mandamus, declaring the proceedings in Lr.No SE/OP/NLG/Coml/F.No.296/D.No.1763/97 dated13-6-1997 on the file of the 1st respondent as illegal, one without power or jurisdiction, in violation of provisions of Section 26 of the Indian Electricity Act.

Counsel for the Petitioner: MR.A.BHASKARA CHARY

Counsel for the Respondents: SMT.M.VINOBHA DEVI, STANDING COUNSEL FOR APSEB

The Court made the following :

ORDER

The petitioner, which is a rice mill, seeks to assail the impugned proceedings, dated 13-6-1997 imposing charges on the basis of the back billing as illegal.

The case of the petitioner is that having found certain defects in the meter and also tampering, the respondent issued the present back billing which is quite on higher side and wholly unsustainable. Further it is the case of the petitioner that the entire amount as assessed under the back billing is totally baseless. Hence the Writ Petition.

Contesting the petitioner's claim, the respondents sought to repel the entire submissions on the ground that once it is found that the meter is defective, the petitioner cannot take advantage thereof having consumed the energy, which has remained unaccounted for.

Considering the submissions made and on perusal of the material, it is seen that on the inspection conducted on 9-5-1997, the meter was found tampered and therefore, the impugned proceedings have been issued. It is not the case of

the petitioner that the respondent is not in any way concerned for the defect in the meter. Having regard to the peculiar nature of allegations, it is very difficult to make any proper assessment in regard to the energy consumed by the petitioner. However, it is seen that in terms of the interim orders granted by this Court, the petitioner has already deposited an amount of Rs.1,00,000/- Therefore, by taking into account the inspection was made as long back as on 9-5-1997 and in view of the long lapse of time, it would suffice the interest of justice to restrict the amount to the extent which has already been paid.

Accordingly, the Writ Petition is partly allowed reducing the amount from Rs.1,84,270/- to Rs.1,00,000/- which has already been paid by the petitioner. No costs.

02-12-2004

Hsd

That Rule Nisi has been made absolute as above.

Witness, the Hon';ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Second day of December, Two thousand and Four.

Assistant Registrar

To

1.The Superintending Engineer,

Operation Circle, APSEB, Nalgonda district.

2.The Assistant Divisional Engineer/DPE-I

Nalgonda, Nalgonda district.

3.The Assistant Divisional Engineer (Operation)

APSEB, Kodad, Nalgonda district.

4.Assistant Accounts Officer, E.R.O.

APSEB, Kodad, Nalgonda district.

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